

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

EMPLOYERS AND OPERATING
ENGINEERS LOCAL 520 PENSION
FUND, *an employee benefit plan, et al.*,

Plaintiffs,

vs.

COX AND SONS CONTRACTING
COMPANY,

Defendant.

Case No. 10-cv-1041-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Notice of Voluntary Dismissal (Doc. 7), which seeks to dismiss all claims against Defendant without prejudice.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff has an absolute right to dismiss an action against an adverse party at any time before said party serves either an answer or a motion for summary judgment, whichever first occurs.

Here, Defendant has yet to file either an answer or a motion for summary judgment. Accordingly, the Court acknowledges that this matter is at an end and **DIRECTS** the Clerk of Court to close the case file.

IT IS SO ORDERED
DATED: January 11, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE